

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
CIVIL MINUTES - GENERAL**

Phoenix Division

CV-15-01132-PHX-NVW

DATE: 3/2/2018

Austin Flake, et al
Plaintiffs

vs.

Joseph M. Arpaio, et al
Defendants

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HON: Senior Judge Neil V. Wake

<u>Rebekka Walder</u>	<u>Laurie Adams</u>
Deputy Clerk	Court Reporter

APPEARANCES:

Stephen Montoya and Richard Trujillo on behalf of Plaintiffs
Evan Hiller and Jeffrey Leonard on behalf of Defendants

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PROCEEDINGS: X Open Court Chambers Other

Matter comes before the Court for Motion Hearing re: Doc. 207, Plaintiffs' Second Motion to Compel, and Order to Show Cause, (Doc. 206).

The Court inquires as to the status of the case against Detective Trombi, which remains unadjudicated after the Court vacated its order granting summary judgment. Plaintiffs advise the Court that they intend to proceed with their claims against Detective Trombi. Discussion held regarding discovery related to Plaintiffs' claims. Defendants advise the Court that Detective Trombi has separate counsel, retained by Maricopa County on her behalf. The Court determines that it will not resolve issues pertaining to the claims against Detective Trombi outside the presence of her new counsel.

Defendants' production of the power consumption chart and time-line chart are discussed. Defendants contend that the power consumption chart was an extrapolation of the SRP data which was provided to the Plaintiffs. Further, Defendants maintain that any charts produced by MCAO were created with information provided to Plaintiffs in the investigative report marked as Exhibit 30 for trial. Discussion held. The Court finds it is necessary to grant a limited reopening of discovery to determine more information as to the creation and use of the charts, as well as communications between Detective Trombi and prosecutors. Discussion held regarding the verdict in favor of Sheriff Arpaio.

Defendants request that if the Court will allow further discovery, that it define what discovery will be. The Court advises that it intends to create a clear direction for the parties in order to prevent expanding discovery beyond what is appropriate.

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The parties review the time-line chart with the Court. Defendants state that the time-line chart is a chronological record created by an MCSO analyst with information provided in the investigative report, including data from the phone company.

The Court determines that the time-line chart is an internal work product of the County Attorney to help understand the data, and does not bear upon the Plaintiffs' claims against Detective Trombi. Therefore, the Court will not allow additional discovery on the time-line chart. The Court will allow additional discovery as to the power consumption chart and the chart which is a different presentation of the same data.

THE COURT DIRECTS Mr. Montoya to draft a summary to submit to Defendants by **March 5, 2018**, as to discovery, which could include limited focused depositions about the power consumption chart, determining who prepared it, what Detective Trombi's participation was, either as providing source information or reviewing it, or who was involved at the Maricopa County Attorney's Office. Defendants shall confer with Plaintiffs regarding the draft by **March 7, 2018**. Should the parties not agree on a draft order regarding discovery, they shall submit to the Court a draft showing the extent to which they agree and containing their competing versions of the portions on which they do not agree. The Court will then complete its order.

IT IS ORDERED granting in part, and denying in part Plaintiffs' Second Motion to Compel, (Doc. 207), to be summarized in the order to follow.

Arguments made as to Plaintiffs' request for additional discovery, deemed by the Defendants as a request for production of the Maricopa County Attorney's Office files. The Court determines that Defendants had advised Plaintiffs that they were not producing the MCAO files, and Plaintiffs did not file a motion to compel at that time.

IT IS FURTHER ORDERED setting this matter for Scheduling Conference to set trial date and pretrial schedule on **March 29, 2018, at 10:00 a.m.** Counsel for Detective Trombi is directed to be present.

Hearing Time: 1 hr 16 mins
Start: 10:05 AM
Stop: 11:21 AM